

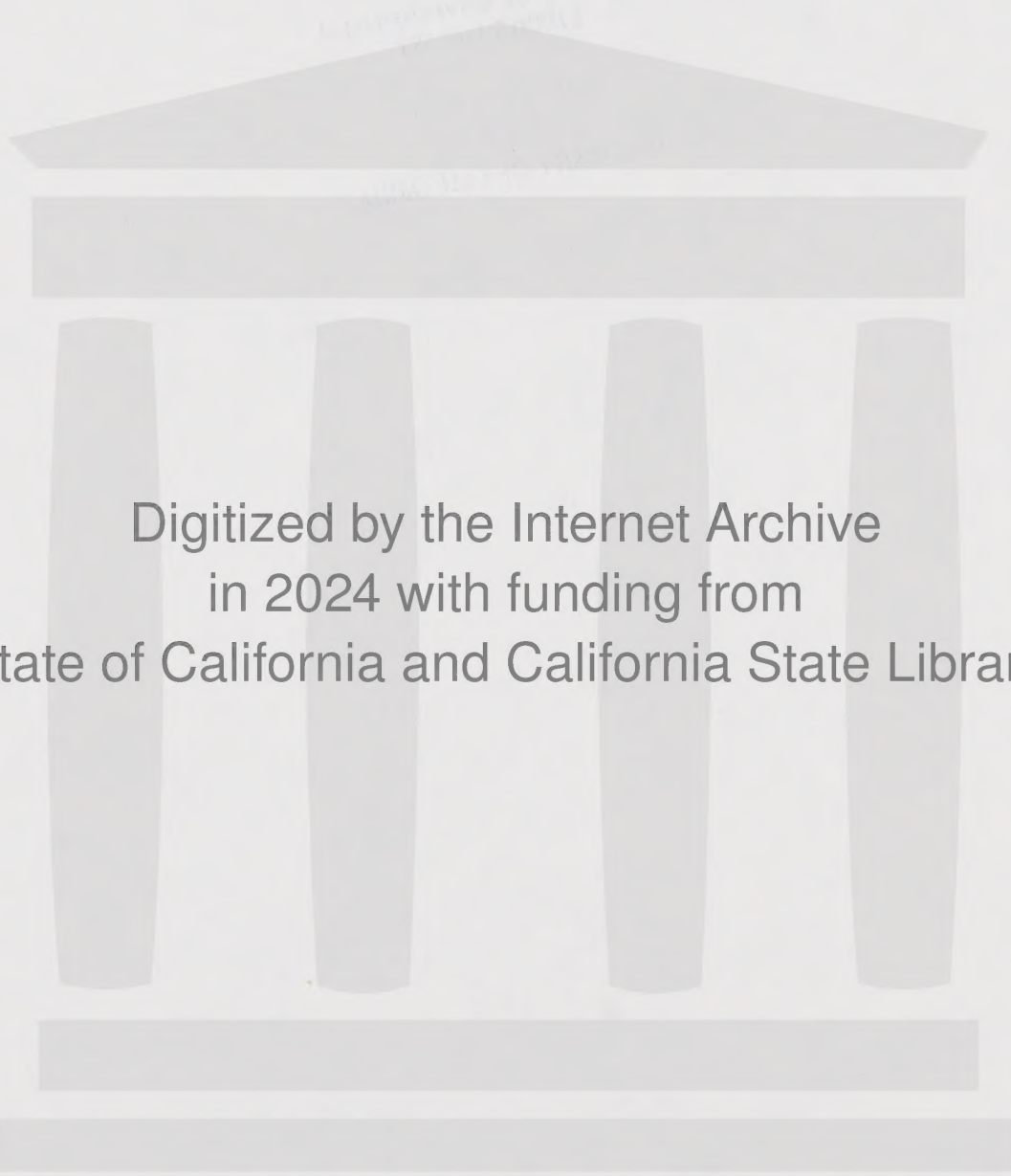
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REPORT OF THE
MAYOR'S TASK FORCE ON
CLAIMS AND JUDGMENTS AGAINST THE CITY

November, 1985



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INTRODUCTION

The Task Force to Reduce Claims And Judgments Against the City was established by the Mayor in the Spring of 1985. Its charge, broadly speaking, was to review the entire problem of claims, lawsuits and judgments against the City and County of San Francisco and to propose concrete solutions which would contribute to a reduction of the fiscal burden which the City bears as a result of claims against the City.

The members of the Task Force are:

Jerome B. Falk, Jr. (Chair): President, Bar Association of San Francisco and a member of the law firm of Howard, Rice, Nemerovski, Canady, Robertson & Falk.

George Agnost: City Attorney.

Lynn A. Altshuler: member of the law firm of Case, Ford, Blake & Burland.

Mathea Falco: Director, Bureau of Claims and Contracts, Public Utilities Commission.

Keith Grand: Risk Manager, Chief Administrative Officer's office.

Peter Henschel: Deputy for Management and Programs, Office of the Mayor.

Craig Martin: Former Deputy City Attorney.

Jerome Sapiro, Jr.: President, Lawyers' Club of San Francisco.

John A. Sutro, Jr.: Pillsbury, Madison & Sutro (and former President of the State Bar of California).

Virginia Tormey: Director of Risk Management,
Pacific Telesis.

Richard Trueb: Deputy Chief, San Francisco
Police Department.

R.J. Young: Executive Vice President, Graham
Miller, Inc.

The Task Force also had the able assistance of Philip S. Ward and Edward Johnson of the City Attorney's Office, for which it expresses its great appreciation.

The problem to which the Task Force addressed itself may be briefly summarized. California's legal system requires cities to bear financial responsibility for the losses and injuries of citizens in a wide variety of circumstances. San Francisco is a large city, with a complex government. It operates an airport, a port, and a large transit system. As a result, it receives a high volume of claims, many of which lead to litigation. In FY 1984-85, for example, approximately 6470 claims were filed against the City. Claims totalling \$1,868,549 were paid without litigation. In litigated cases, judgments and settlements totalled \$8,606,570. Whether one favors or laments the existing tort system which produces these results is not so much the point, for the reality is that San Francisco faces a substantial annual exposure for claims and judgments. The Task Force's assignment was not to lavish rhetoric upon the

situation, but to propose concrete and pragmatic suggestions which could contribute to the minimization of this exposure.^{1/}

That is precisely what we have endeavored to do.

EXECUTIVE SUMMARY

The Task Force makes three principal recommendations, two of which should be implemented by a Charter Amendment which we hope will be submitted to the voters at the June, 1986 election.

1. Creation of a Central Bureau of Claims Investigation and Administration: The Task Force recommends a Charter Amendment to establish, within the City Attorney's Office, a City-wide Bureau of claims investigation and administration. At present, claims are investigated by each department. A centralized investigative bureau would be more efficient, more cost-effective, and more professional. It would be responsible for investigating each claim and, where appropriate, attempting to settle the claim prior to the institution of litigation. Early settlement of claims

^{1/} The Task Force's mandate did not include examination of the quite distinct area of worker's compensation claims. That area, we understand, has been the subject of recent examination by others, and accordingly the Task Force has not considered any issue relating to worker's compensation.

will not only reduce the City's cost of defending against such claims, but should also lead to lower per case settlement amounts.

To facilitate early settlement of cases, the Task Force recommends that the City Attorney be authorized to settle cases for \$15,000 or less without obtaining the approval of either the Board of Supervisors or the affected department head. Because securing such approvals ordinarily consumes considerable time, the City is deprived of the opportunity to offer a settlement which could be consummated immediately, which often is highly attractive to a claimant and financially or legally in the best interests of the City.

The new bureau would be expected to establish and maintain high professional standards for the investigative personnel. Effective training and supervision would be facilitated by centralization. The bureau would maintain a 24 hour/day "hot line" with the capability of dispatching an investigator to the scene of an accident at any time of day or night. It would also facilitate the generation and collection of data needed to evaluate the overall effort of each City department to reduce and minimize risk costs.

2. Strengthening of the City's Risk Management Program: At present, the City has taken a tentative, and important, first step in the creation of an effective risk

management program: a Risk Manager now exists, on a contract basis, in the office of the Chief Administrative Officer. The Task Force recommends a Charter Amendment which would formally establish a Risk Management Office in the CAO's office.

The concept of Risk Management is now well established in the private sector. The Risk Management Office would have numerous responsibilities, including (1) gathering of data on a City-wide basis; (2) creation of incentives for risk avoidance by all departments, such as the development of a cost-allocation system by which the costs of claims and judgments, now paid from a central fund, would be allocated to the particular departments which generate those costs; (3) coordination of insurance purchasing; (4) coordination of drafting for City contracts which provide for insurance and indemnification from third parties; and (5) recommendations to the departments for corrective actions which will avoid or reduce risk.

The Task Force expects that every department will comply with the guidelines and recommendations of the Risk Management Office. To ensure that recommendations which could reduce risk of injury or the cost of claims will be given prompt and careful attention, the reports of the Risk Management Office will be provided to the Chief Administrative

Officer, the Mayor and the Finance Committee of the Board of Supervisors. The Mayor and the CAO would then have the responsibility for ensuring that each City department complies with the guidelines and recommendations of the recommendations of the Risk Manager.

3. Mediation: The Task Force recommends that the City Attorney establish a pilot program for the use of mediation, by a private mediation service, in order to facilitate settlement of claims against the City. Mediation is the use of a disinterested third party who assists the parties in evaluating their respective positions and arriving at a mutually satisfactory settlement. This technique is in increasing use in the private sector as a means of disposing of claims on an acceptable basis.

I.

PROPOSAL TO CREATE A CENTRAL BUREAU OF INVESTIGATION AND ADMINISTRATION WITHIN THE OFFICE OF THE CITY ATTORNEY.

Under present procedures, claims against the City are investigated by personnel in various city departments and agencies, and on occasion by investigators in the City Attorney's office. A number of problems result from this decentralization of the investigative function.

First, the quality of investigation varies dramatically. Muni, for example, has a large investigative staff and a number of trained investigators. The Police Department has the advantage of using trained police officers to investigate claims and incidents. Many other departments, especially the operating departments, lack a skilled, professional investigative staff.^{2/}

Second, there is a lack of uniformity of incident reporting forms and investigative methods. In some instances, the incident forms in use do not provide for data which will be needed in the event a claim is filed. Moreover, the lack of uniform reporting frustrates the City's ability to generate City-wide risk data. While there may be some differences between the circumstances of the various departments which justifies differences in procedures, for the most part

^{2/} The May 28, 1985 Audit Report of the Controller's Office entitled "Claim & Judgment Processing Review" states:

"Currently, the City Attorney investigators, routinely used for litigated actions, are infrequently used to investigate claims and only a few general fund departments have personnel dedicated to investigating claims. We found that most departments are not staffed with personnel dedicated to investigation or otherwise familiar with the investigation process. In these instances the City Attorney would be in the best position to provide investigative staff to direct, assist or coordinate claims investigation." (p.4)

uniformity would improve the reporting and investigative effort and facilitate the evaluation of incidents and claims.

Third, in many departments investigation does not begin until a claim has actually been filed, and this may be several months after the incident. Although some departments, such as Muni, dispatch an investigator to the scene of an accident, that is not the uniform practice. As a result, evidence may grow stale before any City investigation begins.

Fourth, in some instances claims are not processed in a timely manner by the departments. Under California law, the City must respond to a claim within 45 days or it is deemed denied. Where investigation has not even been commenced prior to the receipt of a claim, the department's ability to respond promptly may be impaired.

Fifth, effective claims processing should result in the disposition of as many claims as possible before the claimant files a lawsuit and becomes committed to the litigation process. Often a meritorious claim can be settled for a modest amount if the City responds promptly and fairly to the claim--before the institution of litigation. However, departments with an inadequate investigative and claims-processing staff are ill-equipped to take advantage of such opportunities, and too often claims which could be resolved

are simply denied, forcing the claimant to institute litigation.^{3/} Where this occurs, the cost of a settlement later in the process may be considerably higher.

Sixth, as will be discussed in Section II relating to Risk Management, an effective program of avoiding injuries and reducing claims throughout the City requires that the City's managers have excellent data for the identification of problem areas. The need for the establishment of such a data-gathering program on a City-wide basis has is clear^{4/}

^{3/} The consequences of this deficiency go beyond protecting the City's fiscal purse. For one thing, the institution of litigation imposes a burden on the courts, which are a scarce resource. Moreover, the summary denial of a meritorious claim means that an injured citizen--more probably than not a City resident--has been denied the just redress of a legitimate claim and compelled to institute litigation.

^{4/} The Controller's audit report states:

"Claims data is not sufficiently computerized to enable adequate monitoring of claims disposition nor to allow for proper analysis of claims activity. With properly computerized claims data, the City Attorney will be able to better track the disposition of claims, inform departments about the disposition of claims and better preclude claim handling errors. . . . [Such data will also p]rovide the CAO's Risk Manager with data to procure cost-effective insurance or implement loss prevention programs[, i]dentify situations wherein early incident reporting systems can be implemented[, and d]iscern trends so that programmatic responses can be developed by responsible departments." (pp. 5-6)

but so long as claims investigation is widely decentralized, the task of devising an effective system is made far more difficult.^{5/}

Recommendation of the Task Force

The Task Force recommends that there be established within the City Attorney's Office a Bureau of Claims Investigation and Administration. This Bureau would have exclusive jurisdiction to investigate claims for all departments, bureaus and commissions except the Police Department and the Public Utilities Commission (including the Municipal Railway).^{6/} It would also evaluate each claim for possible settlement and, where appropriate, attempt to settle the claim prior to the institution of litigation. The proposal has the following features:

1. The Bureau would be responsible for investigation of all claims other than those made to the excepted

^{5/} Again, the picture is not uniform. For example, MUNI has developed a computerized claim tracking program.

^{6/} In this context, "exclusive" means that no other City department (other than the specified exceptions) would have claims investigation jurisdiction. The Task Force recognizes that where the claim is covered by insurance, the insurer may have designated an outside claims/legal firm for investigation/defense as part of the overall insurance package.

departments. It could, of course, utilize personnel in the affected department, but the ultimate responsibility for conducting a thorough and professional investigation would rest with the Bureau.

2. The Bureau would be expected to investigate serious accidents and other events giving rise to potential claims at the earliest possible moment. It should maintain 24 hour coverage, and a 24 hour telephone availability, so that it would be clear to all concerned where an incident should be reported; moreover, an investigator could be swiftly dispatched no matter what the time of day or night.

3. The Bureau would evaluate each claim to determine whether it has sufficient merit to warrant an offer of settlement. In cases in which a settlement is appropriate, it would make an offer and attempt to achieve settlement prior to the institution of litigation.

4. Creation of the Bureau should be effected by a Charter Amendment. This would give the Bureau charter authority which should facilitate the effective performance of its duties. Moreover, a Charter Amendment will be necessary to provide for the exemption from civil service requirements discussed in the next paragraph.

5. The investigative personnel within the new Bureau should be exempt from civil service. However, those investigators presently employed by the City who are now under civil service should be grandfathered, so that they will continue to enjoy civil service protection.

6. The Police Department will continue to maintain its own claims investigation capability as an adjunct of the Bureau. However, the proposed Charter Amendment requires the Police Department to continue to maintain an investigative staff.^{7/}

7. The Public Utilities Commission and Muni presently have their own claims and investigative staff. The Task Force considered the benefits which could be achieved by consolidating this staff with proposed new bureau within the City Attorney's Office. However, the PUC claims staff is sophisticated, and its practices and procedures already incorporate many of the recommendations of the Task Force.

^{7/} The reason for requiring the Police Department to maintain an investigative staff is that the Task Force is advised that it has highly skilled investigators at its disposal, and that internal investigation is essential from the standpoint of proper administration and discipline. Thus the proposed Amendment precludes the Police Department from entirely abandoning its claims investigation responsibilities, in favor of the Bureau. However, the claims investigation responsibilities may be the subject of cooperative allocation between the Police Department and the new Bureau, as circumstances warrant.

Concern was expressed that, in this particular instance, transfer of the claims investigation and adjustment function away from the PUC would not be cost effective at the present time. Accordingly, the Task Force does not propose transfer and consolidation of the PUC staff at this time. The proposed Charter Amendment does, however, provide flexibility so that the PUC claims investigation and adjustment unit could be consolidated with the new Bureau in the City Attorney's Office if, at some future date, it appeared desirable to do so. This could be accomplished by agreement between the City Attorney and the PUC without the necessity of a charter amendment.

Advantages of the Task Force's Recommendation

The Task Force believes that centralized claims investigation will address the criticisms and problems identified at the beginning of this Section I.

Most fundamentally, of course, a centralized investigation bureau can, through appropriate training and supervision, develop uniform standards and procedures for excellent investigation and administration of claims no matter which city department or bureau is the target of the claim. Claims made against those departments which, by virtue of size, presently lack a skilled investigative staff would be

investigated as effectively as claims made against departments which presently have a more effective claims investigation capability. By consolidating the investigative personnel, improved and more cost-effective training and skill enhancement programs can be developed.

Immediate dispatch of an investigator to the scene of an accident would be facilitated. It is anticipated that an investigator would be on-duty seven days a week, 24 hours per day. The "duty" investigator could also receive calls to a "Hazard Hot Line", which police, fire, other city personnel, and the public generally could call to report a hazardous condition; the duty of the investigator would be to forward that call to the appropriate city personnel for prompt corrective action, depending on the urgency of the problem. The Bureau would also take necessary steps for the preservation of evidence and interview of witnesses.

Consolidation of the City's investigative function would facilitate evaluation of the efficacy of the City's claims administration program. There would be a well-marked location of the place where the proverbial "buck" stops: responsibility for failure to investigate promptly and respond to a claim would be clear. Likewise, the City's performance in resolving claims without the necessity of

litigation could be evaluated by assessing the performance of a single agency--the Bureau of Claims Investigation and Administration.^{8/}

As noted above, there is a statutory claims period which ordinarily must elapse before litigation can be instituted against a municipality. During that period, the City has an opportunity to examine the claim and to consider whether it should be denied, paid in full, or settled. If the claim is simply denied and litigation commenced, an opportunity to make a modest settlement may be lost. The new Bureau would have responsibility for making a realistic examination of each claim. Where it appears that a claim may have some merit, though perhaps at a much lower figure than the amount of the claim, the Bureau would be responsible for undertaking efforts to reach a settlement of the claim before litigation is instituted. (In this regard, it should be noted that claims are frequently for an unrealistically high amount so that the claimant will not be precluded from recovering more than the claim in the event of litigation. As a

^{8/} To evaluate the performance of the new Bureau, the City should develop objective criteria based on those used by the insurance industry and claims administrators in the private sector. For example, one relevant indicator is the percentage of all claims which are settled before litigation is instituted.

result, a high claim amount does not necessarily mean that the claim cannot be settled for an acceptable figure before a suit is filed.) Of course, as a part of the City Attorney's Office, the Bureau would be expected to consult with an attorney where appropriate; and the City Attorney would have full authority to establish guidelines to determine the level of approval which would be required before a settlement could be finalized. In this regard, the ability of the new Bureau to achieve prompt and affordable settlements prior to the institution of litigation will be affected by the limits on its settlement authority. The City Attorney presently has authority to approve a settlement of \$5000—^{9/} or less, without the approval of the Board of Supervisors, if the affected department head concurs. The Task Force recommends that, with the transfer of settlement authority to the new Bureau, the requirement of the department head's approval of a settlement should be eliminated. (Of course, as a matter of good management, the City Attorney should give notice to, and solicit the views of, the affected department head wherever possible). This recommendation is based upon the

^{9/} Muni's claims staff and the City Attorney have joint authority to settle claims up to \$7500. Above that figure the Public Utilities Commission must also approve the settlement.

fundamental point that the goal is to achieve a speedy, reasonable and economical settlement wherever possible. The requirement that a department head's approval be obtained means that the City's negotiator lacks authority to conclude a settlement; and any settlement proposal requires a time-consuming approval process. As a result, claimants reject settlements in circumstances in which the ability to "make a deal right now" would have facilitated an early settlement of the claim.^{10/}

For much the same reasons, the proposed Charter Amendment provides that there shall be established, by ordinance, a revolving fund for the payment of settled claims. The ordinance would, of course, provide a maximum amount for such claims, with those in excess of that maximum payable only by warrant.^{11/}

Similarly, the Task Force recommends that the Board of Supervisors amend the applicable ordinance to increase

^{10/} When the new Bureau is established, the City Attorney should consider giving the investigator/adjustors authority to settle claims under a specified amount on the spot, without approval of a superior. The PUC has given such authority to its adjustors for settlements under \$7500, and has found the practice to be beneficial from the standpoint of facilitating prompt and inexpensive settlements.

^{11/} The PUC has established such a revolving fund, for settlements of less than \$7500.

the City Attorney's authority to enter into a settlement without its approval to \$15,000. This authority would, of course, continue to be subject to the City Attorney's obligation to provide periodic reports to the Finance Committee of all settlements made.

Investigation of a claim by the affected department often raises difficult questions of whether the investigator's report is privileged or, alternatively, must be produced to the claimant once litigation has been commenced and discovery initiated. Although the City Attorney ordinarily takes the position that such reports are privileged because prepared at his request, this can be a problem in some cases.^{12/} If the investigation were conducted by a Bureau within the City Attorney's Office, the privileged status of the report should be beyond question.

A single claims investigation Bureau would also be in an excellent position to provide the kind of data that is needed by an effective Risk Management operation, as discussed

^{12/} For example, in one case, the Court of Appeal in an unpublished decision compelled disclosure of statements of various police officers that had been gathered by the police department in response to a civil claim. The court rejected the City Attorney's privilege argument. In another case, Municipal Railway accident statements were ordered produced because they allegedly were used by the Muni for non-litigation related purposes.

in Section II of this Report. The Bureau could eliminate the needless diversity in incident reporting forms which exists throughout the City by establishing a report form to be used on a City-wide basis. This is essential if the City is to develop a data base for the generation of City-wide statistics regarding incidents and claims, as discussed in Section II, infra. Uniform incident reporting and evaluation methodologies would also be beneficial where employees transfer, as frequently is the case, from one department to another, and would make possible meaningful training on a City-wide basis of employees who are responsible for incident reporting. Finally, development of uniform reporting forms and standards would ensure that the information which will be needed if and when a claim is made is collected and contained in the incident report.

From the standpoint of the investigators employed by the City in the various departments, they would find enhanced job-satisfaction through the increased professionalism and skill-enhancement that can be expected to occur. Moreover, investigators would no longer be limited to a particular subject area (i.e., the kinds of claims that are made against a single department) but could be assigned to a broad variety of kinds of claims. While the new Bureau would doubtless make work assignments that reflect the expertise

of particular investigators, the opportunity for more varied work should inure to the benefit and increased professionalism of the investigative staff.

The Task Force recommends that the investigators employed by the new Bureau be exempt from Civil Service. (As noted above, those investigators currently employed by the City would be "grandfathered" and thus would continue to be covered by Civil Service.) Investigators are an indispensable arm of the attorneys on the staff; and attorneys are, of course, exempt employees. Investigators perform many professional functions just as do attorneys: they investigate the facts; they interview witnesses; they evaluate evidence; and they settle claims, frequently with minimal attorney involvement. While perhaps these functions were not as extensive or as intertwined with the work of attorneys at the time investigators were initially treated as within civil service, a contemporary examination of their functions reveals no basis for treating them differently than attorneys. In that regard, it is significant that investigators employed by the District Attorney are already exempt from Civil Service; the Task Force believes that there is no reason to differentiate between City-employed investigators merely because the matter under investigation is civil rather than criminal.

Investigators of necessity operate with minimal supervision, and the range of their duties makes precisely objective performance evaluation correspondingly difficult to conduct. Given the 24 hour per day responsibilities of bureau personnel and the sensitivity and professional nature of their work, exempt status is calculated to promote prompt, efficient and loyal performance. In this era of diminishing governmental revenues, adequate performance is no longer enough. Persons performing professional duties and making upward of \$40-50,000 annually should be held to standards and goals of superior performance. We believe that this objective will be promoted by treating the civil investigators in the same manner as the investigators in the District Attorney's office and exempting them from civil service.

II.

PROPOSAL TO STRENGTHEN THE RISK MANAGEMENT PROGRAM OF THE CITY.

The Task Force recommends that a Charter Amendment be adopted which would formalize and strengthen the Risk Management program now conducted, on a contract basis, by

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the Chief Administrative Officer.^{13/}

At present, there is a Risk Manager operating under the aegis of the Chief Administrative Officer. Established about seven years ago, his function is to evaluate the City's risk exposure and to take all appropriate steps to minimize it.^{14/} However, many City departments, bureaus and commissions do not operate under any supervisory authority of the CAO, and as a consequence the recommendations of the Risk Manager applicable to them are purely advisory and are not infrequently disregarded.

This problem is exacerbated by the fact that non-enterprise departments do not bear the costs of defending against or paying claims made against them; such costs are borne by the general fund. However, the cost of purchasing insurance, or the capital cost of taking corrective action

^{13/} Risk management is the systematic process of identifying and controlling the financial impact of all risks created by all City operations and activities. Estimated at more than \$120 million annually, San Francisco's total cost of risk (which is more fully described in Appendix "A" hereto) demands strong action to achieve significant savings. While the scope of City-wide risk management is much broader than liability claims, such other issues are outside the charge given this Task Force. These other issues will, however, fall within the jurisdiction of the Risk Management program which this section of the Task Force's Report recommends be strengthened.

^{14/} The person discharging this important function is Mr. Keith Grand, who served as a member of the Task Force and whose input on this subject was invaluable.

which might avoid such claims in the future (to say nothing of the injuries to human beings which generate such claims), must come from the budgeted appropriations to those departments. There is, in short, a built-in disincentive to take appropriate corrective action which would reduce the frequency of claims and might save the City substantial sums in the long run; there is a similar disincentive as to the purchase of insurance.

The Task Force believes that the risk management function should be strengthened and reinforced. At present, the Risk Manager exists pursuant to a contract with the Chief Administrative Officer. A Charter Amendment providing for a Risk Management Office under the jurisdiction of the CAO could strengthen this important function. Each department, bureau and commission would be responsible for managing the costs of risks created by its operations, and for carefully considering and acting upon the recommendations of the Risk Management Department.^{15/}

^{15/} Many members of the Task Force were of the opinion that it would be preferable for the Risk Management Office to be established by Charter Amendment as a part of the Mayor's Office rather than under the Chief Administrative Officer. The reason for that approach was that many departments and commissions are not under the direct jurisdiction of the CAO; moreover, the Mayor's powers with respect to the

(continued)

The Risk Management Office would carry on and expand upon the important work now performed by the CAO's risk manager. Among the functions it would perform are the following:

Data Gathering: Effective risk management requires detailed information about the operations of each department and the claims which those operations generate. To do this, the City must have a city-wide, computerized information system which contains not only the data relating to accidents and claims which have been experienced but also other data concerning the operations of the various departments which

15/ (footnote continued)

submission of a budget are such that a department or commission would have a strong incentive to pay heed to recommendations of a Risk Manager operating under the authority of the Mayor.

Ultimately, however, the Task Force elected to recommend that the Risk Management Office be retained under the CAO, and strengthened in the manner suggested in this Report. The Task Force is mindful of an ongoing discussion within City government concerning possible charter revisions which would alter or eliminate the function of the CAO. Plainly, such major structural changes go far beyond the jurisdiction of this Task Force, and we express no opinion on those matters. Rather, the Task Force takes the structure of City government as it presently exists. Given that structure, and the fact that a competent and conscientious Risk Manager presently exists within the CAO's office, the Task Force has concluded that the preferable course at this time is to do all that is possible to strengthen the risk management function.

can be analyzed to determine what steps might be taken to reduce injuries and claims. For example, the number of City vehicles or number of miles driven annually are factors in projecting future automobile accidents. There are many other variables such as driver competence, vehicle condition, and weather, traffic volume which may also bear on future accidents. Analysis of such data will help determine whether the significant variables are being correctly managed by the respective departments. Development of this kind of data base requires the cooperation of the departments, and the creation of appropriate systems for its collection and utilization.

At present, the obligation of the departments to provide necessary data to the Risk Manager is unclear. In many general fund departments, there is lacking an adequate system of data collection or even, as noted previously, an adequate form for obtaining it when an incident occurs. The new Risk Management Office must be given explicit authority to require the collection of the necessary data, in a form useful to it, by all departments.

Creation of Appropriate Incentives to Prevent Accidents and Claims: We have already mentioned the disincentive to accident/claim prevention which the present structure of City government creates for the non-enterprise departments.

In a nutshell, the problem is that the cost of accident avoidance comes out of each department's budget; but the cost of defending against and paying claims comes out of the general fund. Therefore, the individual departments are not easily made accountable for the risk costs they generate. Solution of this problem is not easy, for it is impractical to take the cost of defending and paying claims out of an affected department's budget. That technique, so effectively used in the private sector as to separate profit-centers, cannot be directly adapted to non-enterprise departments of municipal government which provide essential public services.

Thus the challenge is to find other means to stimulate an aggressive program of accident and claim avoidance in each of the departments, bureaus and commissions. An effective Risk Management program, using the carrot, the stick, or a combination of both, should devise and implement such incentives.

One approach, of considerable merit, is to develop and implement a risk cost allocation system of the type more fully described in Appendix "A". In brief, such an allocation system collects data on City-wide risk costs and apportions it equitably among the various departments. This cost allocation would not actually involve a transfer of funds or directly result in the cost of risks being taken from a

department's budgeted funds. Rather, it would allow the tracking of those costs which are in fact generated by each department even though paid from a central source (i.e., the Controller's Judgment and Claims fund). It would therefore provide an effective means of evaluating each department's performance in preventing or minimizing risk costs.

With such an allocation system, it would be feasible to incorporate management of such costs into the City's existing Management By Objective (MBO) program. This allocation/MBO mechanism would bring under departmental scrutiny--and oversight by the Mayor, the CAO and the Board of Supervisors--a real cost of a department's operations which presently escapes meaningful scrutiny and oversight.

Loss Prevention: Utilizing the database described above, the Risk Management Office should identify areas in which claims experience is unsatisfactory, and in consultation with the affected department make recommendations as to how accidents and claims could be reduced in the future.

Insurance: All departments currently have the authority to decide whether or not to purchase insurance. However, in practice there are two distinct groups. General Fund departments purchase virtually no insurance, largely because they are (at present) not accountable for the cost of uninsured losses. Enterprise Fund departments do purchase

insurance, largely because they must pay uninsured losses from their own revenue. Moreover, insurance purchasing procedures in the Administrative Code often work to the disadvantage of the City.^{16/} The Risk Management Office should be a centralized source of data about insurance and should evaluate and make recommendations for the most efficient procuring of insurance throughout City government.

Contract Administration: The City enters into thousands of contracts annually for the provision of goods and services to it. While insurance and indemnification provisions are usually part of such contracts, there needs to be further standardization of such provisions to strengthen their use as risk transfer mechanisms. The Risk Management department has already made substantial progress with the

^{16/} Section 21.4 has been interpreted to require a detailed, written specification for insurance it wishes to purchase, to be followed by a request for quotations from as many insurance brokers as possible. The Task Force has been advised that in many instances, insurance brokers and insurers will not work on "bid business" so that this requirement operates to the City's disadvantage.

Consideration should be given to a reinterpretation or, if necessary, a revision of Section 21.4 so that a more flexible insurance purchasing procedure could be used. For example, the City could select two brokers, who would compete with one another, would contact different insurers and would each provide the City with quotations. The City would, of course, then select among the insurers with the most attractive bids.

major departments in this area and should propose City-wide standards for review and incorporation of such provisions in all City contracts, as appropriate.

Legislative Risk Management: Some risk costs are created by legislation or judicial interpretation, such as the current "deep pocket" problem. Often such costs are best addressed by legislative change. (An excellent example is the current effort to modify California's joint and several liability doctrine.) The Risk Management Office should expand present efforts to monitor, propose, oppose or support legislation which would assist the City in reducing risk costs.

Coordination of Risk Avoidance: In some instance, the reduction or avoidance of a risk requires cooperation between more than one City department. One department may, for example, discover a hazard or experience an accident which suggests the need for corrective action to be taken by another department. The Risk Management department should be utilized to coordinate such corrective actions, and to follow up where prompt action is not taken by all of the affected departments.

Follow-Up: To ensure that the Risk Management Department's recommendations with respect to such matters as insurance, contract drafting, corrective action and risk

avoidance are given appropriate consideration and acted upon by the various departments, boards and commissions, the Risk Management Office should submit periodic reports to the CAO, the Mayor and the Finance Committee of the Board of Supervisors. These reports should indicate the major recommendations made to the various departments, boards and commissions together with the status of each such recommendation. In that way, the CAO, the Mayor and the Committee would be in a position to evaluate the performance of both the Risk Management Office and the affected departments in minimizing the risk of future loss.

III.

INCREASED USE OF MEDIATION.

Mediation is a technique for the resolution of disputes without litigation or as a means of achieving a settlement of litigation. It is increasingly utilized in the private sector, and on a limited basis in the public sector. The Task Force recommends that the City Attorney establish a pilot program to evaluate the value of mediation in resolving claims against the City on a cost-effective basis.

Mediation can take many forms. Its essence is the use of a skilled third-party--the mediator--who confers with

the parties and/or their attorneys in an attempt to define and narrow the issues, and to explore the possibility of settlement before trial and, perhaps, even before the commencement of litigation. It is consensual--that is, it takes place only with the consent of all parties. It differs from arbitration in that the mediator does not have the power to "decide" anything; that is, if the parties are unable to agree on a satisfactory resolution of the dispute, then mediation ends and the parties are free to carry on with litigation.

Mediation has proven to be very successful in many contexts. One member of the Task Force reports that her law firm uses mediation to resolve many claims of relatively small amounts, and that approximately 95% of those claims referred to mediation are settled. Mediation is also used for very substantial claims, where the litigation process will inevitably be lengthy and costly.

One reason for mediation's success is that the third party is indeed a neutral. The mediator listens to each side's position and helps each to understand the weaknesses of that position and assists them in evaluating it. In some instances, the mediator may actually suggest a compromise figure which would be an appropriate basis for settlement. That frequently assists the claimant's lawyer in

persuading the client to accept a lower amount than he/she desires; and, in the context of the City, it would provide a degree of assurance to responsible City officials and to the Board of Supervisors that the proposed settlement figure is reasonable.

Mediation services are provided by several outside services such as the American Arbitration Association and American Intermediation Service. Such services might be obtained on a contract basis. The Task Force believes that mediation is more likely to be successful if both sides are committed to the process and if the claimant demonstrates that commitment by agreeing to pay a portion of the cost.^{17/}

^{17/} The Task Force discussed the probable cost of mediation services with one organization, the American Intermediation Service. Its charges ordinarily range from \$150-200 per hour and its representative estimate that for routine cases preparation for and conduct of the mediation should take approximately 3 hours. This representative also indicated that his organization would consider participation in a pilot program at the rate of \$100 per hour. On that basis, the average cost of mediation for a routine case would be \$300.

The Task Force believes that the City Attorney should consider requiring any firm providing mediation services to agree that (1) fees for any single case would not exceed a specified amount, at least without the express consent of the City; and (2) that the arrangement be terminable, without cause, at the City's option.

The Task Force recommends that a pilot program of voluntary mediation be undertaken using a random selection of cases involving both large and small claims. After the expiration of the pilot period--which should be at least 6 months--the settlement statistics for the pilot project should be compared to similar cases which have not been mediated in order to determine the efficacy of mediation of different types of cases.

Another program of potential value to the City is the Early Settlement Program which the Bar Association of San Francisco has proposed to the Superior Court. That program has been approved in principle by the Court and should be implemented in early 1986. Briefly, it contemplates that within a year of filing, most cases would be assigned to panels of two attorneys, one of whom would ordinarily represent plaintiffs and one of whom would ordinarily represent defendants. They would conduct a settlement conference, essentially functioning as mediators, at no cost to the parties. The Task Force recommends that the City make every effort to utilize this program as part of its efforts to resolve cases early in the litigation process.

In order for mediation to be effective, the City's representative should have authority to conclude a settlement at the mediation session at a realistic figure. For the

reasons discussed in Section I, supra, at pp. 17-19, the present settlement authority of the City Attorney should be re-evaluated. Of course, in mediations involving very large claims, that may not be possible; but at least in the mediation of small claims, adequate authority to conclude a settlement would greatly facilitate successful mediation.

CONCLUSION

Attached to this Report, as Appendix "B", is a proposed Charter Amendment which will implement the recommendations in Sections I and II of the Task Force's Report. The Task Force hopes that this amendment will be placed upon the ballot at the June, 1986 election.

No charter amendment is required to implement the recommendations in Section III.

The Task Force believes that its recommendations will assist in reducing the costs of claims and litigation. We hope that they will be favorably received and acted upon by the leaders and citizens of San Francisco.

110585/2-JBFAe

APPENDIX A

MEMORANDUM DESCRIBING
RISK/COST ALLOCATION SYSTEM

RISK COST ALLOCATION

Cost Accounting is a widely-accepted technique to identify the full cost of operations. Equitable allocation of that cost to the many activities that create it enable an organization to pin-point where costs are occurring. This concept is used in risk management as a financial incentive and performance evaluation tool in managing the overall cost of risk as explained later. First, a brief background.

RISK MANAGEMENT

Risk Management is a systematic process for controlling the total financial cost associated with injuries to employees, damage to City property, injury or damage to the public, loss of City revenue, etc. In short, all financial cost of injury or damage to people, property and revenue. This total cost is the cost of risk, which includes these elements:

1. Uninsured losses
2. insurance premiums
3. loss control activities
4. claims administration, legal defense
5. overall administrative costs of managing the system.

Insurance premiums are the cost of transferring the risk of the above events to insurers, not always possible or cost-effective. Loss control activities refers to the cost of actions taken to prevent or minimize the undesired events, including employee training, protective equipment, etc. Claims administration and legal defense are costly activities necessitated when injury or damage occurs which isn't insured. Overall administrative cost includes salaries and expenses associated with the total cost of risk City-wide, not specifically included elsewhere.

SAN FRANCISCO'S COST OF RISK

The total annual cost of risk has never been precisely calculated, because San Francisco has never had an effective system of accountability for risk costs. A rough estimate of the annual cost of risk is:

COST OF RISK

<u>COMPONENT</u>	<u>ANNUAL COST</u>
Workers' Compensation	\$ 15,000,000
Disability retirement*	38,100,000
Unemployment benefits*	6,400,000
Health benefits*	37,500,000
Liability claims	10,700,000
Insurance premiums	4,600,000
Loss control	500,000
Claims/legal administration	9,000,000
Overall administration	350,000
	<u>\$122,150,000</u>

*A traditional, narrow definition of risk management would not include these items. However, since they represent uninsured costs paid by the City and somewhat manageable, I feel they belong here.

While the magnitude of this cost is alarming in itself, the realization that few people are aware of it and fewer people are doing anything about it is even more alarming. Also, these costs are of a nature that they will increase, not decrease, unless effective controls are applied. Effective controls must be based on accountability of the departments that generate these costs and the managers that run these departments.

ACCOUNTABILITY

San Francisco now has a peculiar, bifurcated management system in which managers are accountable for certain costs of operations under their authority, but not accountable for other costs of operations under their authority. Thus, we have elaborate accounting systems and financial control mechanisms to track every penny spent on salaries, materials and supplies, etc. We add to this an MBO program to set goals and objectives in managing these dollars wisely, with progress reports and accountability galore. But, the whole, vast area of cost of risk generated by a department's activities isn't tracked by the department at all, isn't subject to MBO programs and the department budget isn't accountable for any of it. Consider the City's Judgment and Claims fund. It pays liability claims against the City generated by General Fund departments. The Controller budgets the total fund, the City Attorney investigates claims, defends suits and recommends the amounts to be spent for each claim. The General Fund department that created the loss has little knowledge or concern about frequency or cost of claims. No charges ever appear in the department's budget directly. No department MBO program includes management of this item of its cost of operations. No department manager has a performance evaluation based, in part, on control of department risk costs.

This financial dichotomy in our present management system is an incentive for not taking corrective action. It can be eliminated by making the total cost of departmental operations visible, by department, and subject to accountability. A risk cost allocation system makes accountability possible, at the department budget level and the individual manager level.

RISK COST ALLOCATION

While the concept of allocation is simple, implementation in a complex organization is difficult. Before discussing the mechanics of an allocation system, it is helpful to note that San Francisco has already begun this practice, piecemeal, under different names.

Enterprise fund accounting creates departments that generate their own revenues and pay their own expenses, which include their costs of risk. Current examples of this include the Airport, Port and PUC.

A different risk cost allocation example is the City-wide funding of unemployment benefits. A payroll tax of .4% is charged all departments, to create a central fund in the Controller's Office, from which all benefits are paid. A separate charge of \$2 per employee is charged all departments to pay the administrative fee of a contract claims administrator.

There may be other partial or modified examples of allocating costs to departments, not important to this discussion. But these examples point out that the concept of allocation isn't new and that accounting mechanisms, in various forms, have been developed and implemented.

RISK COST ALLOCATION (Cont'd.)

Another impetus for risk cost allocation comes from the State Controller's Office, in connection with County-Wide Cost Allocation Plans (COWCAP). The State Controller has published a handbook of procedures for California Counties and the City Controller has hired a consultant to help create an acceptable allocation system. The risk cost allocation system I'm proposing would conform to COWCAP guidelines, but extend to costs outside their concerns, which are grant-reimbursable expenses. The table of contents from the State Controller's Handbook is enclosed as Exhibit A to illustrate similarities between their Risk Management concepts and mine.

The Board of Supervisors recently expressed indirect interest in accountability for risk costs by requiring the City Attorney (in conjunction with Ordinance 78-85) to report quarterly on the remedial actions taken by departments to prevent recurrence of similar claims. (See attached Exhibit B).

RISK COST ALLOCATION MECHANISMS

A risk cost allocation system must be:

1. Equitable
2. understandable
3. based on readily-available data
4. compatible with accounting and regulatory guidelines
5. able to measure the risk of loss

Of these characteristics, measuring the risk of loss needs explanation. Allocation mechanisms must look backward at the history of actual losses (experience) and project forward to anticipate future losses (exposure). Experience and exposure must be weighted appropriately in order to project equitable allocations to future budgets. In general, if certain claims occur with great frequency, the history of such claims (experience) can be weighted heavily as a reliable predictor of future claims activity. If certain other claims occur rarely, there is little experience from which to project future claims. Thus, the exposure factors, rather than experience factors, should be more heavily weighted in predicting future costs.

Ideally, an allocation system should be supported by a computerized data base that can analyze large bodies of information and produce irrefutable numbers. San Francisco doesn't have such a system yet, but has portions of it and is moving in the right direction. However, we can allocate costs based on data we now have, produced manually. To illustrate allocation concepts and calculations, I've picked liability and workers' compensation claims as two costs of risk, both uninsured, of significant size, and currently not allocated to departments that generate these claims. In the overall cost of risk described earlier, these two areas are in only one category (uninsured losses) of cost of risk. A risk allocation system should allocate the entire cost of risk, but, for purposes of illustration, let's use these:

WORKERS' COMPENSATION COST ALLOCATION (Example)

General fund department A has had the following history of claims and employee payroll:

WORKERS' COMPENSATION COST ALLOCATION (Example) (Cont'd.)

	<u>Claims (Experience)</u>	<u>Payrolls (Exposure)</u>
1984	324	\$6,200,000
1983	297	5,900,000
1982	260	5,400,000

Averaging these three years gives: 294 claims; \$5,833,333 payroll.

During the same period, total City claims and payrolls averaged: 7,450 claims; \$400,000,000 payroll. Department A represents 3.9% of claims and 1.5% of payroll. Our intent is to allocate to Dept. A its equitable share of projected losses for the future 1986 budget. Total projected payrolls and claims, City-wide, are:

<u>Number of Claims</u>	<u>Cost of Claims</u>	<u>Payroll</u>
8,500	\$12,000,000	\$600,000,000

Our allocation system uses the number of claims as the experience measure, payroll as the exposure measure. Assume experience and exposure are weighted equally.

Total amount to be allocated City-wide is \$12 million, split equally between experience and exposure since we are using a 50% weighting factor for each. The calculations for Dept. A are as follows:

		<u>Dept A</u>			
		<u>Experience (50%)</u>			
		<u>\$6,000,000</u> X			
Total			<u>.039</u>	=	\$234,000
		<u>Dept A</u>			<u>Total</u>
<u>City</u>			<u>Exposure</u>		<u>Dept A</u>
\$12,000,000		<u>Exposure (50%)</u>	<u>.015</u>	=	\$ 90,000
		<u>\$6,000,000</u> X			\$324,000

Thus, Dept A is allocated \$324,000 for Workers' Compensation claims in the 1986 budget. For administrative efficiency, the amount should not actually be budgeted in Dept A's budget, because they would then have to transfer it to the Retirement System's Workers' Compensation fund where claims are administered and payments authorized. The allocation system will produce reports which highlight for departments, CAO, Mayor, Commissions and Boards where these costs are occurring. By developing an equitable cost for each department, risk cost control can be included in the existing MBO system, with goals and objectives to reduce such costs.

A great deal of discussion can be devoted to specifics, such as measures of experience and exposure, weighting factors, large loss limitations, actuarial credibility, etc., which would only confuse the intent of this illustration. Liability allocations follow the same format:

LIABILITY COST ALLOCATION (Example)

General Fund Department A has had the following history of liability claims and number of vehicles (this example allocates vehicle liability costs):

	<u>CLAIMS (Experience)</u>	<u>VEHICLES (Exposure)</u>
1984	47	150
1983	42	138
1982	36	125

LIABILITY COST ALLOCATION (Example) (Cont'd.)

Averaging these three years gives: 42 claims; 137 vehicles. During the same period, total City vehicle liability claims and number of vehicles averaged: 1,820 claims; 3,200 vehicles. Department A represents 2.3% of claims and 4.3% of vehicles.

Our intent is to allocate to Department A its equitable share of projected losses (vehicle claims costs) for the future 1986 budget. Total projected number of vehicles, claims and claims costs, City-wide, are:

<u>Vehicles</u>	<u>Vehicle Claims</u>	<u>Vehicle Claims Costs</u>
3,600	2,000	\$2,500,000

NOTE: In both the Workers' Compensation and liability allocation calculations, there isn't a direct correlation between the number of claims and cost of claims. However, the budget must use a projected cost figure. So the allocation is based on the department's percentage of the total City number (of claims, vehicles, etc.) applied to projected total City cost.

This example use claims as the experience factor, vehicles as the exposure factor, weighted 30% experience, 70% exposure.

	<u>Experience (30%)</u>	<u>Dept. A Experience</u>	
Total City	\$ 750,000	.023 =17,250	Total
	<u>Exposure (70%)</u>	<u>Dept. A Exposure</u>	<u>Dept. A</u>
Projected Cost	\$1,750,000	.043 =75,250	\$92,500
\$2,500,000			

Based on manual data currently available, I allocated workers' compensation and liability costs for all departments, attached as Exhibit C.

MANAGEMENT BY OBJECTIVE (MBO)

By using allocation to calculate a department's equitable share of the overall City cost of risk, we can incorporate these numbers into the department's MBO program. For example, a department's objective may be to reduce the number of its workers' compensation claims. Using the above workers' compensation allocation example, the department's expected cost of claims is \$324,000. Barring large losses, reducing the number of claims should reduce the total cost of claims. If the department's actual cost is \$200,000, a portion of the \$124,000 "savings" can be returned to the department for loss control or other uses.

As mentioned before, this illustration doesn't explore the details or answer all the "what ifs", for the sake of introducing the concept.

CONCLUSION

Various costs associated with injury or damage to people, property and revenue have never been pulled together as a cost of risk lending itself to management control. Effective management is more likely if the total cost is equitably allocated into smaller pieces and distributed to responsible departments, via a system that provides both the departmental identity of the pieces and the overall City perspective of the whole. A computerized allocation system is necessary for the huge volume of calculations to be timely and accurate.

CONCLUSION (Cont'd.)

Data on claims and litigation is part of the raw material need for accurate allocation. While cost allocation is not a panacea, it is probably the single most effective mechanism to begin controlling an organization's cost of risk.

"EXHIBIT A"

PART III

INDIRECT OVERHEAD GUIDELINES

	SECTION
PRINCIPLES OF INSURANCE MANAGING, ACCOUNTING, AND FUNDING FOR GRANT REIMBURSEMENT PURPOSES	3400
What is Insurance?	3410
Risk Management	3412
Definition of Self-Insurance	3414
Self-Insurance Programs	3416
Advantages and Disadvantages of Self-Insurance	3418
Accounting for the Self-Insurance Program	3420
Accruing Losses Incurred but not Reported	3422
Identifying the Costs of Risk	3430
Example of Exceeding the Maximum Tolerable Self-Insurance Level	3432
Financing the Self-Insurance Program	3440
Establishing the Self-Insurance Reserve	3442
Operating the Self-Insurance Program	3444
Allocating the Costs of the Self-Insurance Program	3446
Insurance Pooling as an Alternative	3448
Risk Management Cost Identification Systems	3450
The Guidelines on Insurance Set Forth in OMB Circular A-87	3460
Summary of the State Controller's Requirements Concerning the Costs of Insurance for Grant Reimbursement Purposes	3470
Sources of Additional Information	3480
Glossary of Insurance Terms	3490



George Agnost,
City Attorney

"EXHIBIT B"

The Board of Supervisors has adopted Ordinance No. 78-85 amending sections of The San Francisco Administrative Code relative to settlement of litigation and unlitigated claims. The amendment authorizes the City Attorney and the head of the Department concerned or of the Board or Commission in charge of the Department to settle claims and litigations not in excess of \$5,000.00 (up from \$2,500.00) until March 1, 1986.

The Ordinance requires the City Attorney to submit, on a quarterly basis until March 1, 1986, a Confidential Attorney-Client Report to the Board listing claims settled not in excess of \$5,000.00 during that period. The report shall give information on each claim regarding amount demanded, amount paid, nature of incident giving rise to the claim, and the City Department involved. The Board also indicated the report shall contain a summary of remedial action the Department has taken to prevent occurrence of the same incident that gives rise to the claim.

The attached claim for which approval is being sought involves your Department. In implementation of the Board's wishes, we request your office to furnish us with a brief information on specific measure or measures your Department has taken or is taking to ensure the same incident will not happen again. You may use the attach form for this purpose. This information will form part of the next quarterly report to the Board of Supervisors.

Thank you very much for your cooperation in this matter.

Sincerely yours,

GEORGE AGNOST
City Attorney

Bernard Shew
Claims Adjuster

Encl.

"EXHIBIT C"

WORKERS' COMP. ALLOCATION

70%

30%

AMOUNT TO BE ALLOCATED, WEIGHED FOR EXPERIENCE/EXPOSURE

		EXPERIENCE		EXPOSURE		AMOUNT TO BE ALLOCATED, WEIGHED FOR EXPERIENCE/EXPOSURE								
		1	2	3	4	5	6	7	8	9	10	11	12	13
		NUMBER OF CLAIMS	% OF TOTAL		NUMBER OF EMPLOYEES	% OF TOTAL		70%		30%		TOTAL ALLOCATION		
								\$7,912,000		\$3,391,000				
01	BOARD OF SUPERVISORS	1	.0002		92	.0027		\$ 1,582.40		\$ 9,155.70		\$ 10,738.10		
02	MAYOR	2	.0021		399	.0116		16,615.20		39,335.60		55,950.80		
03	ASSESSOR	2	.0004		130	.0038		3,164.80		12,885.80		16,050.60		
04	CITY ATTORNEY	1	.0019		195	.0057		15,032.80		19,328.70		34,361.50		
05	DISTRICT ATTORNEY	13	.0023		393	.0115		18,197.60		38,996.50		57,194.10		
06	TREASURER	1	.0002		26	.0008		1,582.40		2,712.80		4,295.20		
07	SHERIFF	116	.0205		529	.0154		162,196.00		52,221.40		214,417.40		
08	PUBLIC DEFENDER	7	.0012		122	.0036		9,498.40		12,207.60		21,706.00		
09	POLICE	1,266	.2232		3,335	.0972		1,765,958.40		329,605.20		2,095,563.60		
10	FIRE	810	.1428		1,902	.0554		1,129,838.60		187,861.40		1,317,699.00		
11	PERMIT APPEALS	1	.0002		12	.0003		1,582.40		1,017.30		2,599.70		
12	RECREATION & PARK	333	.0587		100	.0321		464,438.40		105,851.10		570,289.50		
14	PUBLIC LIBRARY	18	.0032		703	.0205		25,318.40		69,515.50		94,833.90		
15	WAR MEMORIAL	10	.0018		92	.0027		14,241.60		9,155.70		23,397.30		
16	ART COMMISSION	3	.0005		57	.0017		3,956.00		5,764.70		9,720.70		
18-A	FINE ARTS MUSEUM	3	.0005		120	.0035		3,956.00		11,868.50		15,824.50		
19	CAL. ACADEMY OF SCIENCE	1	.0002		9	.0003		1,582.40		1,017.30		2,599.70		
20	MUNICIPAL COURT	2	.0004		314	.0092		3,164.80		31,197.20		34,362.00		
21	SUPERIOR COURT	6	.0011		177	.0052		8,703.20		17,633.20		26,336.40		
23	YOUTH GUIDANCE CENTER	14	.0025		165	.0048		19,780.00		16,276.80		36,056.80		
24	JUVENILE COURT	35	.0062		213	.0062		49,058.40		21,024.20		70,082.60		
25	ADULT PROBATION	8	.0014		127	.0037		11,076.80		12,546.70		23,623.50		
26	CAO	1	.0002		20	.0006		1,582.40		2,034.60		3,617.00		
28	TAX COLLECTORS	6	.0011		177	.0052		8,703.20		17,633.20		26,336.40		
29	REGISTRAR	1	.0002		202	.0059		1,582.40		20,006.90		21,589.30		
31	COUNTY CLERK	9	.0016		134	.0039		12,659.20		13,224.90		25,884.10		
32	PUBLIC ADMINIST.	0	-0-		27	.0008				2,712.80		2,712.80		
33	PURCHASING	51	.0090		253	.0075		71,208.00		25,432.50		96,640.50		
36	DPW-GENERAL OFFICE	7	.0012		102	.0030		9,498.40		10,171.00		19,669.40		
38	DPW-BLDG. REPAIR	123	.0217		402	.0117		171,690.40		39,674.70		211,365.10		

		EXPERIENCE		EXPOSURE		AMOUNT TO BE ALLOCATED, WEIGHED FOR EXPERIENCE/EXPOSURE		70%		30%		ALLOCATION	
		1	2	3	4	5	6	7	8	9	10	11	12
		NUMBER OF CLAIMS	% OF TOTAL	NUMBER OF EMPLOYEES	% OF TOTAL			\$7,912,000		\$3,391,000			
39	DPW-BLDG. INSPECTION	13	.0023	199	.0058			\$ 18,197.60		\$ 19,667.80		\$ 37,865.40	
40	DPW-ENGINEERING	23	.0041	252	.0073			32,439.20		24,754.00		57,193.50	
41	DPW-ARCHITECTURE	1	.0002	36	.0010			1,582.40		3,391.00		4,973.40	
42	DPW-STREET CLEANING	121	.0213	474	.0138			168,525.60		66,795.80		215,321.40	
43	DPW-WATER POLLUTION	124	.0219	457	.0133			173,272.80		65,100.00		218,373.10	
47	CLEAN WATER PROGRAM	2	.0004	88	.0026			3,164.80		8,816.60		11,981.40	
49	ELECTRICITY	16	.0028	126	.0037			22,153.60		12,546.70		34,700.30	
50	PUBLIC HEALTH - CENTRAL	36	.0063	898	.0262			49,845.60		88,844.20		138,689.80	
51	PUBLIC HEALTH/LAGUNA HONDA	268	.0473	1,560	.0455			374,237.60		154,290.50		528,528.10	
52	PUBLIC H. MENTAL HOSPITAL	22	.0039	521	.0152			30,856.80		51,543.20		82,400.00	
53	PUBLIC H. GENERAL HOSPITAL	407	.0718	3,537	.1031			568,081.60		349,612.10		917,693.70	
56	SOCIAL SERVICES	66	.0116	1,298	.0378			91,779.20		128,179.80		219,959.00	
57	CORONER	4	.0007	42	.0012			5,538.40		4,069.20		9,607.60	
58	AGRICULTURAL	1	.0002	16	.0005			1,582.40		1,695.50		3,277.90	
60	CONTROLLER	16	.0028	550	.0160			22,153.60		54,256.00		76,409.60	
61	CITY PLANNING	5	.0009	117	.0034			7,120.80		11,529.40		18,650.20	
62	PUC-GENERAL OFFICE	20	.0035	562	.0164			27,692.00		55,612.40		83,304.40	
71	CIVIL SERVICE	4	.0007	367	.0107			5,538.40		36,283.70		41,822.10	
72	RETIREMENT	7	.0012	125	.0036			9,494.40		12,207.60		21,702.00	
45	DPW-STREET REPAIR	18	.0032	197	.0057			25,318.40		19,328.70		44,647.10	
64	AIRPORT	151	.0266	958	.0279			210,459.20		94,608.90		305,068.10	
65	MUNICIPAL RAILWAY	1,144	.2017	3,892	.1134			1,595,850.40		384,539.40		1,980,389.80	
66	PUC-WATER	146	.0257	582	.0170			203,338.40		51,647.00		260,985.40	
67	PORT	65	.0115	221	.0064			90,988.00		21,702.40		112,690.40	
68	HETCH HETCHY	28	.0049	210	.0061			38,768.80		20,685.10		59,453.90	
90	HEALTH SERVICE SYSTEM	2	.0004	38	.0011			3,164.80		3,730.10		6,894.90	
98	S.F. COMMUNITY COLLEGE	90	.0159	5,090	.1483			125,800.80		502,885.30		628,686.10	
22	LAW LIBRARY			3	.0001					339.10		339.10	
30	RECORDER	0		24	.0007					2,373.70		2,373.70	
34	REAL ESTATE	0		26	.0008					2,712.80		2,712.80	

[illegible]

"EXHIBIT C"

TORT LIABILITY ALLOCATION

(GEN. LIAB/AUTO LIAB)													EXPOSURE			
		EXPERIENCE		EXPOSURE		EXPERIENCE		VEHICLE		EMPLOYEE						
DEPARTMENT		NUMBER OF CLAIMS	% OF TOTAL	NUMBER OF VEHICLES	% OF TOTAL	NUMBER OF EMPLOYEES	% OF TOTAL	50%	25%	25%	TOTAL ALLOC.					
01	BOARD OF SUPERVISORS	4	.0013	1	.0004	92	.0033	6,091.8	937.2	1,731.9	8,760.9					
02	MAYOR	14	.0046	12	.0042	399	.0143	21,555.6	9,840.6	3,504.9	34,901.1					
03	ASSESSOR	3	.0010	2	.0007	130	.0047	4,686.0	1,640.1	1,011.1	7,338.2					
04	CITY ATTORNEY	5	.0016	3	.0011	195	.0070	7,497.6	2,577.3	1,401.0	11,475.9					
05	DISTRICT ATTORNEY	32	.0104	35	.0123	393	.0141	48,714.4	28,818.9	31,036.3	108,589.6					
06	TREASURER	2	.0007	0	-	26	.0009	3,280.2		2,108.7	5,388.9					
07	SHERIFF	124	.0404	66	.0232	529	.0190	89,814.4	54,357.6	44,517.0	188,689.0					
08	PUBLIC DEFENDER	3	.0010	8	.0028	122	.0044	4,686.0	6,566.4	10,309.2	21,555.6					
09	POLICE	1,186	.4510	923	.3241	3,135	.1196	2,113,386.0	759,366.3	280,222.8	3,152,975.1					
10	FIRE	67	.0218	250	.0878	1,902	.0682	102,154.8	205,715.4	159,792.6	467,662.8					
11	PERMIT APPEALS	0		0		12	.0004			937.2	937.2					
12	RECREATION & PARK	72	.0560	281	.0987	1,100	.0395	262,416.0	231,251.1	92,548.5	586,215.6					
14	PUBLIC LIBRARY	0		7	.0025	703	.0251		5,857.5	59,040.6	64,901.1					
15	WAR MEMORIAL	1	.0003	0		92	.0033	1,403.8		1,731.9	3,135.7					
16	ART COMMISSION	4	.0013	6	.0021	57	.0020	6,091.8	4,920.3	1,681.0	12,693.1					
18-A	FINE ARTS MUSEUM	2	.0007	6	.0021	120	.0043	3,280.2	4,920.3	10,071.9	18,272.4					
19	CALIFORNIA ACADEMY OF SCI	1	.0003	7	.0025	9	.0003	1,403.8	5,857.5	702.9	7,964.2					
20	MUNICIPAL COURT	23	.0075	0		114	.0113	35,145.0		26,475.9	61,620.9					
21	SUPERIOR COURT	3	.0010	0		177	.0064	4,686.0		14,995.2	19,681.2					
23	YOUTH GUIDANCE CENTER	3	.0010	33	.0116	178	.0135	4,686.0	21,178.8	31,630.5	63,495.3					
25	ADULT PROBATION	1	.0003	7	.0025	127	.0046	1,403.8	5,857.5	10,777.8	18,041.1					
26	CHIEF ADMINISTRATIVE OFF.	4	.0013	1	.0004	20	.0007	6,091.8	937.2	1,640.1	8,669.1					
28	TAX COLLECTOR	5	.0016	2	.0007	177	.0064	7,497.6	1,640.1	14,995.2	24,132.9					
29	REGISTRAR	5	.0016	2	.0007	202	.0072	7,497.6	1,640.1	16,869.6	26,007.3					
30	RECORDER	2	.0007	0		24	.0009	3,280.2		2,108.7	5,388.9					
22	LAW LIBRARY	0		0												
31	COUNTY CLERK	4	.0013	0		134	.0048	6,091.8		11,246.4	17,338.2					
32	PUBLIC ADMINISTRATOR			3	.0011	27	.0010		2,570.3	2,343.0	4,920.3					
33	PURCHASING	5	.0016	42	.0147	258	.0093	7,497.6	54,441.1	21,789.9	83,729.6					
34	REAL ESTATE	1	.0003	1	.0004	26	.0009	1,403.8	937.2	2,108.7	4,451.7					

[illegible]

APPENDIX B

PROPOSED CHARTER AMENDMENT

File No. _____

CHARTER AMENDMENT

PROPOSITION _____

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said city and county by adding Section 3.401(c) and amending Section 3.510 thereto.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at an election to be held therein on June 4, 1986 a proposal to amend the Charter of said city and county by adding Section 3.401(c) and amending Section 3.510 thereto, to read as follows:

NOTE: Additions or substitutions to Section 3.510 are indicated by underlining; deletions to Section 3.510 are indicated by ~~striking out~~ type. The entire Section 3.401(c) is new.

CHAPTER FOUR: OTHER ELECTED OFFICIALS

3.401(c) City Attorney

There is established in the office of the City Attorney a bureau of claims investigation and administration which shall have the responsibility of investigating, evaluating and processing for the several boards, commissions and departments all claims for money or damages made upon the city and county pursuant to section 7.703 of this charter or the general law of the state of california. Claim investigation functions of the police department in existence on June 4, 1986 shall continue as an adjunct to the bureau established under this section. Claims

investigation functions of the public utilities commission shall remain under that commission unless transferred to the bureau of claims investigation and administration by public utilities commission resolution. Notwithstanding any other provision of this charter, the bureau shall also have the power to investigate events and occurrences giving rise to potential civil liability against the city and county and adjust and settle demands, within dollar limits to be established by ordinance, prior to their presentment as claims. There shall be established by ordinance a revolving fund to satisfy such demands adjusted prior to their presentment as claims. The bureau shall be responsible for the investigation of all claims and the analysis of city policies and practices upon which the bureau shall report and advise the several departments.

The City Attorney shall appoint a chief of the bureau who shall serve at his or her pleasure. The chief of the bureau may appoint, subject to confirmation by the City Attorney, investigators who shall serve at the pleasure of the chief; provided, however, that any person who has civil service status to the position of civil claims investigator or any equivalent classification on the date of approval of this amendment by the electorate shall continue to have civil service status to said position under the civil service provisions of this charter.

3.510 Governmental Services, Purchasing, Real Estate, Public Works, Electricity, County Agricultural Department; Coroner's Office; and Convention Facilities Management, Risk Management.

The functions, activities and affairs of the city and county that are hereby placed under the direction of the chief administrative officer by the provisions of this charter, and the powers and duties of officers and employees charged with specific

jurisdiction thereof, shall subject to the provisions of section 11.102 and section 3.501 of this charter, be allocated by the chief administrative officer, among the following departments:

Department of Governmental Services, which shall include the functions and personnel of the offices of registrar of voters, recorder, public administrator and such other functions as may be assigned by the chief administrative officer, and shall be administered by the chief administrative officer.

The public administrator shall appoint and at his pleasure may remove an attorney. He may also appoint such assistant attorneys as may be provided by the budget and annual appropriation ordinance.

Purchasing Department, which shall include the functions and personnel of the bureau of supplies, the operation of central stores and warehouses, and the operation of central garages and shops, and shall be administered by the purchaser of supplies who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

Real Estate Department, which shall include the functions and personnel of the office of the right-of-way agent.

Department of Public Works, which shall include the functions and personnel of the telephone exchange and which shall be in charge of and administered by the director of public works, who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

The director of public works shall appoint a deputy director of public works for operations, a deputy director of public works for engineering, a deputy director of public works for financial management and administration, and an assistant to the director of public works, each of whom shall hold office at the pleasure of said director. The director of public works shall designate a deputy or other employee to perform the duties of city engineer. Said deputy or employee shall possess the same

power in the city and county in making surveys, plats and certificates as is or may from time to time be given by law to city engineers and to county surveyors, and his official acts and all plats, surveys and certificates made by him shall have the same validity and be of the same force and effect as are or may be given by law to those of city engineers and county surveyors.

All examinations, plans and estimates required by the supervisors in connection with any public improvements, exclusive of those to be made by the public utilities commission, shall be made by the director of public works, and he shall, when requested to do so, furnish information and data for the use of the supervisors.

The department of public works shall semi-annually notify the tax collector of the amount of each assessment that becomes delinquent and the lot and block number against which such assessment is levied, and it shall be the duty of the tax collector to note such delinquency on each annual tax bill.

The department of public works shall have powers and duties relating to street traffic, subject to the laws relating thereto, as follows: (a) to cooperate with and assist the police department in the promotion of traffic safety education; (b) to receive, study and give prompt attention to complaints relating to street design or traffic devices or the absence thereof; (c) to collect, compile, analyze and interpret traffic and parking data and to analyze and interpret traffic accident information; (d) to engage in traffic research and traffic planning, and (e) to cooperate for the best performance of these functions with any department and agency of the city and county and the state as may be necessary.

The department shall submit to the traffic bureau of the police department, for its review and recommendation, all proposed plans relating to street traffic control devices; provided, however, that the bureau may waive submission and

review of plans of particular devices designated by it. Failure of the said traffic bureau to submit to the department its recommendation on any proposed plan within fifteen (15) days after receipt shall be considered an automatic approval of said traffic bureau. The department shall not, with respect to any traffic control devices, implement such plan until the recommendation of the traffic bureau has been reviewed or until the fifteen (15) day period has elapsed.

Department of Electricity, which shall be administered by a chief of department. The premises of any person, firm or corporation may, for the purpose of police or fire protection, be connected with the police or fire signal or telephone system of the city and county upon paying a fair compensation for such connection and the use of the same, provided that any such connection shall require the approval of the chief of the department of electricity and shall not in any way overload or interfere with the proper and efficient operation of the circuit to which it is connected. The conditions upon which such connection shall be made and the compensation to be paid therefor shall be fixed by the board of supervisors by ordinance upon the recommendation of the chief of the department.

Coroner's office, which shall include the functions and personnel of the existing office of coroner as established at the time this charter shall go into effect.

County Agricultural Department, which shall be administered by a county agricultural commissioner and shall include functions established by state law and those assigned to it by or in accordance with provisions of this charter.

Department of Weights and Measures, which shall include the functions and personnel of the office of sealer of weights and measures as established at the time this charter shall go into effect.

Convention Facilities Management Department, which shall include the city and county's convention facilities, including but not limited to Brooks Hall, Civic Auditorium and Moscone Center, and shall consist of a general manager and such employees as may be necessary to carry out the functions and duties of said department. The chief administrative officer shall have charge of the department of convention facilities management.

The chief administrative officer shall appoint a general manager of the convention facilities management department who shall hold office at this pleasure. The general manager shall be the administrative head and appointing officer of the department of convention facilities management. Subject to the approval of the chief administrative officer, the general manager shall have power to alter, repair, manage, operate and maintain all of the city and county convention facilities, including but not limited to Brooks Hall, Civic Auditorium and Moscone Center. All contracts or orders for work to be performed on convention facilities shall be awarded and executed by the general manager with the approval of the chief administrative officer and shall be administered by the general manager.

It shall be the function and duty of the department of convention facilities management to manage, operate and maintain all of the city and county convention facilities, including, but not limited to, Brooks Hall, Civic Auditorium and Moscone Center.

There is established under the chief administrative officer a risk management office, the head of which shall serve by appointment of or contract with the chief administrative officer at his or her pleasure. The risk manager shall review, analyze and report to the mayor, chief administrative officer and the finance committee of the board of supervisors the practices of the several departments regarding loss prevention and risk management including the insurance requirements of the city and county. The risk manager shall also establish and assist in the

implementation of planning and operational guidelines regarding risk management and loss prevention for each department, board and commission of the city and county.

If in the election of November 6 / 1984 two or more propositions amending section 3/510 of this charter receive the number of votes necessary for their adoption / notwithstanding any other provisions of this charter / the city attorney shall incorporate their provisions into one section /

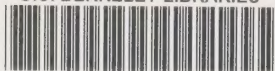
APPROVED AS TO FORM:

GEORGE AGNOST, City Attorney

By: _____
Deputy City Attorney

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U.C. BERKELEY LIBRARIES



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